

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.114 and in light of the remarks which follow, are respectfully requested.

By the present amendment, claim 29 has been amended to recite that the polycondensate is obtained by melt blending a polyamide obtained by polymerization of lactams and/or amino acids or a polyester obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound, wherein the difunctional compound comprises at least one of adipic acid, decanoic or sebacic acid, dodecanoic acid, terephthalic acid, isophthalic acid, hexamethylenediamine, methylpentamethylenediamine, 4,4'-diaminodicyclohexylmethane, butanediamine, metaxylylenediamine, 1,3-propanediol, 1,2-ethanediol, 1,4-butanediol, 1,5-pentanediol, 1,6-hexanediol or polytetrahydrofuran. Support for such amendment can be found in the instant specification at least at page 12, lines 14-26, taken in connection with page 14, lines 5-11. Claims 37, 39 and 40 have been canceled without prejudice or disclaimer. New claim 58 has been added which recites subject matter of claims 30 and 31 in the alternative. Claims 33, 35, 41 and 57 have been amended to depend from claim 58. Entry of the foregoing amendments is proper at least because a Request for Continued Examination is being filed herewith. See 37 C.F.R. §1.114.

In the Official Action, claims 29-35, 37, 39-41, 43-52 and 55-57 stand rejected under 35 U.S.C. §103(a) as being obvious over International Publication No. WO 03/029350 (WO '350). The Examiner has relied on U.S. Patent No. 7,323,241 (*Myard et al*) as being an equivalent of WO '350. Withdrawal of this rejection is respectfully requested for at least the following reasons.

Myard et al does not disclose or suggest each feature recited in independent claim 29. For example, *Myard et al* does not disclose or suggest that the polycondensate is obtained by melt blending a polyamide obtained by polymerization of lactams and/or amino acids or a polyester obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound, wherein the difunctional compound comprises at least one of adipic acid, decanoic or sebacic acid, dodecanoic acid, terephthalic acid, isophthalic acid, hexamethylenediamine, methylpentamethylenediamine, 4,4'-diaminodicyclohexylmethane, butanediamine, metaxylylenediamine, 1,3-propanediol, 1,2- ethanediol, 1,4-butanediol, 1,5-pentanediol, 1,6-hexanediol or polytetrahydrofuran, as recited in claim 29.

The Patent Office has relied on *Myard et al* for disclosing the use of monomers (IIa) and (IIb) at column 4, lines 25-30. However, there is no disclosure or suggestion that the polycondensate is obtained by melt blending a polyamide obtained by polymerization of lactams and/or amino acids or a polyester obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound, wherein the difunctional compound comprises at least one of adipic acid, decanoic or sebacic acid, dodecanoic acid, terephthalic acid, isophthalic acid, hexamethylenediamine, methylpentamethylenediamine, 4,4'-diaminodicyclohexylmethane, butanediamine, metaxylylenediamine, 1,3-propanediol, 1,2- ethanediol, 1,4-butanediol, 1,5-pentanediol, 1,6-hexanediol or polytetrahydrofuran. Nor is there any disclosure or suggestion of structure resulting from the use of such difunctional compound.

At page 2 of the Advisory Action, the Examiner has alleged that "Applicant admits on the record that the monomers above produce the claimed polymer structure." No such admission has been made by Applicants, and the contents of previously submitted claims do not constitute any such admission. To the contrary, Applicants

have argued that the claimed polymer structure is not disclosed or suggested by *Myard et al.* Moreover, as discussed above, claim 29 has been amended to recite that the polycondensate is obtained by melt blending a polyamide obtained by polymerization of lactams and/or amino acids or a polyester obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound. *Myard et al.* does not disclose structure resulting from the use of such difunctional compound.

In light of the above, it is apparent that *Myard et al.* does not disclose or suggest each feature recited in independent claim 29. Accordingly, for at least the above reasons, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Claims 29-52 and 57 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 3,893,981 (*Thoma et al.*). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Thoma et al. does not disclose or suggest each feature recited in independent claim 29. For example, *Thoma et al.* does not disclose or suggest that the polycondensate is obtained by melt blending a polyamide obtained by polymerization of lactams and/or amino acids or a polyester obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound, wherein the difunctional compound comprises at least one of adipic acid, decanoic or sebacic acid, dodecanoic acid, terephthalic acid, isophthalic acid, hexamethylenediamine, methylpentamethylenediamine, 4,4'-diaminodicyclohexylmethane, butanediamine, metaxylylenediamine, 1,3-propanediol, 1,2-ethanediol, 1,4-butanediol, 1,5-pentanediol, 1,6-hexanediol or polytetrahydrofuran, as recited in claim 29.

The Patent Office has relied on *Thoma et al.* for disclosing the structural units disclosed at column 4, lines 32-60 thereof. However, *Thoma et al.* has no disclosure or suggestion that the polycondensate is obtained by melt blending a polyamide obtained

by polymerization of lactams and/or amino acids or a polyester obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound, wherein the difunctional compound comprises at least one of adipic acid, decanoic or sebacic acid, dodecanoic acid, terephthalic acid, isophthalic acid, hexamethylenediamine, methylpentamethylenediamine, 4,4'-diaminodicyclohexylmethane, butanediamine, metaxylylenediamine, 1,3-propanediol, 1,2-ethanediol, 1,4-butanediol, 1,5-pentanediol, 1,6-hexanediol or polytetrahydrofuran. Nor is there any disclosure or suggestion of structure resulting from the use of such difunctional compound.

Accordingly, for at least the above reasons, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Claims 29-35, 37, 39-41 and 43-52 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 7,323,241. For the reasons previously explained herein with respect to the §103(a) rejection on the basis of the disclosure of *Myard et al*, of which claims 1-23 of *Myard et al* are a part thereof, independent claim 29 is patentably distinguishable over the disclosure of *Myard et al*, and is distinguishable over the claims thereof for at least the same reasons previously noted herein.

Accordingly, for at least the above reasons, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 29-52 stand provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 22-42 of copending Application No. 10/565,870 on the grounds set forth on page 11 of the Official Action. This rejection is moot in view of the above amendments to claim 29, wherein such claim now recites that the polycondensate is obtained by melt blending a polyamide obtained by polymerization of lactams and/or amino acids or a polyester

obtained by polymerization of lactones and/or hydroxyacids, with a difunctional compound, wherein the difunctional compound comprises at least one of adipic acid, decanoic or sebacic acid, dodecanoic acid, terephthalic acid, isophthalic acid, hexamethylenediamine, methylpentamethylenediamine, 4,4'-diamino-dicyclohexylmethane, butanediamine, metaxylylenediamine, 1,3-propanediol, 1,2-ethanediol, 1,4-butanediol, 1,5-pentanediol, 1,6-hexanediol or polytetrahydrofuran. Accordingly, for at least this reason, withdrawal of this rejection is respectfully requested.

The dependent claims are allowable at least by virtue of their direct or indirect dependence from independent claim 29. Thus, a detailed discussion of the additional distinguishing features recited in the dependent claims is not set forth at this time.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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